

July 25, 2002

Ms. April Mulqueen, Esquire
Assistant Director
Telecommunications Division
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

**Re: D.T.E. 01-33 - Request for Waiver of NANPA's Denial of AT&T's
Request for 10,000 Numbers to Meet a Specific Customer Need**

Dear Ms. Mulqueen:

AT&T Communications hereby requests that the Department issue a waiver of NANPA's (*i.e.*, "NeuStar" or "Pooling Administrator") decision to deny AT&T's request for a new exchange code of 10,000 numbers to meet the specific needs of a customer requesting additional numbering resources. AT&T takes such action pursuant to Federal Communications Commission ("FCC") rules [47 C.F.R. 52.15(g)(3)(iv)].

1. Background and Nature of the Numbering Request.

The Massachusetts Institute of Technology ("MIT"), a customer of AT&T, has requested that AT&T provide a block of 10,000 numbers – *i.e.* an entire NXX – in the 617 NPA for telecommunications services AT&T provides. MIT is currently undergoing large scale construction including new residence halls and new buildings for faculty/ staff offices.

As a result of this expansion, MIT has recently installed a new switch with increased capability and functionality. The customer requests a new central office code of 10,000 numbers for this switch. Because of the existing switch features, the exchange required can only end in the number 4 (*i.e.*, 617-NX4-XXXX). Additionally, MIT needs exchanges that fit into its existing dialing pattern and are outside of the exchanges it currently has, and do not end in a digit that is a current feature code activation number in their switch.¹

On July 22, 2002, AT&T submitted a request to the Pooling Administrator via the PAS ("Pooling Administrator System") interface for a new code in NPA 617 within the

¹ The specific restrictions are described in detail in a letter from the customer, enclosed with this request.

restrictions outlined by the customer. AT&T did this in accordance with the Industry Numbering Committee's Guidelines and submitted the necessary months-to-exhaust.²

AT&T requested the new code from the Pooling Administrator because it does not have the needed numbers available in its existing inventory. If the customer cannot get the needed numbers from AT&T, it will be forced to seek service from another carrier.

The Pooling Administrator rejected AT&T's request because AT&T did not meet the Federal Communications Commission's ("FCC") utilization requirement for the Cambridge rate center. The denial of AT&T's request was based on the Pooling Administrator's understanding of the applicable FCC rules and related INC Guidelines. These rules and guidelines require that a block or code holder requesting growth resources demonstrate that existing resources within the rate center will both exhaust within six months, and meet the 60 percent utilization level.

2. Request for Waiver of NANPA's NXX Code Denial.

AT&T requests that the Department overturn the Pooling Administrator's decision and order a new central office code that meets the customer's requirements be assigned to AT&T.

In setting its policy for the assignment of telephone numbers, the FCC designated NANPA and the Pooling Administrator to handle numbering resource administration.³ If numbering resource administrator decides to withhold numbering resources from a carrier, the FCC has specifically authorized state commissions to overturn those decisions for reasonable cause documented herein. That authority is specifically set out in the relevant FCC Rule, 47 C.F.R. § (g)(4), which states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. **The state**

² A paper copy of the input screens from the PAS interface is attached.

³ 47 C.F.R. § 52.15(a) states: "Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission." 47 C.F.R. § 52.20(d) states: "The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunications industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part."

commission may affirm, or may overturn, the NANPA’s decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA’s decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies. (emphasis added)

In addition, the FCC through the INC Guidelines provides that appropriate regulatory authorities may review the Pooling Administrator’s decision to deny a request for numbering resources.⁴

The FCC also clarified in the text of a recent NRO Order⁵ that carriers may now appeal to states using a “safety valve” mechanism (paragraphs 57-66). As is noted in the following, the FCC contemplated the need for, and gave structure to states to respond when denials failed to consider a “specific customer request”:

...a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier’s inability to satisfy a specific customer request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. Any numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom the application was made. If the customer request is withdrawn or declined, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other customers without first meeting our growth numbering resource requirements.⁶

⁴ See INC TBPAG Sections 3.7 and 12(c).

⁵ *In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (“Third NRO”).

⁶ *Id.* at ¶ 64.

It is clear that all necessary elements are present to allow the Department adequate evidence for the overturning of NeuStar's denial. First, AT&T made the appropriate application to the Pooling Administrator. Second, the Pooling Administrator rejected AT&T's request for a growth code in the Cambridge rate center because AT&T's utilization of its numbers in this rate center did not hit the requisite percent.

FCC numbering policy is not intended to deny carriers the use of numbers for legitimate purposes such as this. In issuing its Numbering Resource Optimization Order released December 29, 2000 (and effective May 8, 2001)⁷ the FCC communicated the heart of its pro-competition policy when it stated:

“[w]e continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP) are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.”⁸

Accordingly, AT&T respectfully requests the Department grant this waiver request on an expedited basis, and direct NeuStar to assign to AT&T a code that meets the customer's requirements immediately.

Thank you for your assistance in this matter.

Sincerely yours,

Patricia A. Jacobs
Regional Director
Regulatory and Government Affairs

Enclosures

cc: Mary L. Cottrell, Secretary
Michael Isenberg, Esq., Director
D.T.E. 01-33 Service List

⁷ *In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 89-200 (rel. Dec. 29, 200) (“*FCC 00-429 Second NRO*”). Due to its length, the 108 page *FCC 00-429 Second NRO* is not attached hereto but may easily be accessed at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-00-429A1.doc.

⁸ *Id.* at ¶ 1.